

### DETAILED ACTION

1. Claims 1-45 are pending and currently under Restriction Requirement.
2. The claims encompass multiple methods of reducing ocular inflammation comprising administering a neutralizing agent that is specific for CXCL10 wherein the agent may be an antibody, polypeptide, peptide, peptiomimetic, nucleic acid, carbohydrate or lipid. These molecules are patentably distinct because their structures, physicochemical properties and/or mode of action are different, and they do not share a common structure that is disclosed to be essential for common utility. For the purpose of restriction, the present claims read on an *antibody* as the neutralizing agent. However, if neutralizing agents other than the antibody are introduced during the prosecution, then the claims will be subjected to further restriction.

### ***Election/Restrictions***

3. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-34, drawn to a method of reducing ocular inflammation comprising administering a neutralizing agent specific for CXCL10 wherein the neutralizing agent is an **antibody** specific for CXCL10.

Group II, claim(s) 35-45, drawn to a method for screening for a compound for reducing ocular inflammation comprising provide the compound wherein the compound is an **antibody** specific for CXCL10.

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: PCT Rule 13.2 defines "special technical features" as "those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art." In addition, unity of invention has to be considered in the first place only in relation to the independent claims.

The uniting feature of the present invention is a method for reducing ocular inflammation comprising administering an agent that neutralizes CXCL10. Su et al. teach a method of treating ocular inflammation in subject with HSV-1 infection comprising administering a monoclonal antibody (Journal of Virology, 1996, 70:1277-1281, cited on IDS, see entire document). In particular, Su et al. teach a method to reduce ocular inflammation by reducing chemokine expression associated with HSV infection wherein CXCL-10 (aka. IP-10) was one the chemokines expressed during the infection (see page 1279, Figure 2 and last paragraph of left column).

Su et al. do not teach using an agent that specifically neutralizes CXCL-10 to reduce chemokine expression for treating ocular inflammation. However it would have been obvious to one of ordinary skill in the art, at the time of the invention was made, to use a neutralizing antibody specific for CXCL-10 because it was well known in the art that such anti-CXCL-10 antibody can neutralize CXCL-10 and reduce inflammation in other viral infected subjects as taught by Liu et al. (Journal of Immunology 2001, 167:4091-4097, cited on IDS, see entire document).

Therefore, it would have been obvious to use an anti-CXCL10 neutralizing antibody as taught by Liu et al to reduce ocular inflammation in subjects with HSV infection as taught by Su et al.

As such, the uniting feature of the present application does not contribute over prior art. Therefore no special technical feature exists in the present application.

### ***Species Election***

4. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

5. If Group I is elected, Applicant is required to elect a specific disease recited in claims 5, for example, “viral infection” **OR** “bacterial infection”.

In addition, Applicant is required to elect a specific infection as it reads on “viral infection” or “bacterial infection”, for example: herpes virus infection.

Furthermore, Applicant is required to elect the specific individual *with* **OR** *without* corneal graft.

6. If Group II is elected, Applicant is required to elect a specific index as recited in claim 45, for example, “reduced leukocyte infiltration” **OR** “reduced MIP-1alpha expression”.

7. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: see Su et al. and Lui et al..

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

8. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON WEN whose telephone number is (571)270-3064. The examiner can normally be reached on Monday-Thursday, 8:30AM-6:00PM, ALT. Friday, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen O'Hara can be reached on (571)272-0878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sharon Wen, Ph.D./

Examiner, Art Unit 1644

April 10, 2008

/Eileen B. O'Hara/

Supervisory Patent Examiner

Art Unit 1644